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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7 UNITED STATES OF AMERICA,)
)
8 Plaintiff,) Case No. CR02-443-MJP-12
)
9 v.) **PROPOSED FINDINGS OF**
) **FACT AND DETERMINATION**
10 PHOUNG DUNG DUONG,) **AS TO ALLEGED**
) **VIOLATIONS OF**
11 Defendant.) **SUPERVISED RELEASE**
)
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13 INTRODUCTION

14 I conducted a hearing on alleged violations of supervised release in this case on June 17,
15 2009. The defendant appeared pursuant to a warrant issued in this case. The United States was
16 represented by Nicholas Brown, and defendant was represented by Catherine Chaney. Also
17 present was Senior U.S. Probation Officer Mark J. Chance. The proceedings were digitally
18 recorded.

19 SENTENCE AND PRIOR ACTION

20 Defendant was sentenced on September 15, 2003 by the Honorable Marsha J. Pechman for
21 Conspiracy to Distribute Controlled Substances. He received 57 months of imprisonment and 3
22 years supervised release. His supervision commenced on September 21, 2007. On January 2,
23 2008, the probation office alleged defendant used cocaine. The Court concurred with the

PROPOSED FINDINGS OF FACT AND
DETERMINATION AS TO VIOLATIONS OF
SUPERVISED RELEASE -1

1 recommendation that no action be taken. On March 7, 2008, the probation office alleged
2 defendant was continuing to use cocaine, and failed to appear for drug testing. Defendant
3 admitted the violations and received 30 days of jail with credit for time served, 180 days of home
4 confinement and 30 months of supervision. On August 8, 2008, the probation office alleged
5 defendant used cocaine and failed to complete his home detention. On October 30, 2008, the
6 Court sentenced defendant to six months of jail and 24 months of supervision.

7 PRESENTLY ALLEGED VIOLATIONS AND
8 DEFENDANT'S ADMISSION OF THE VIOLATION

9 In a petition dated May 11, 2009, Senior U.S. Probation Officer Mark J. Chance alleged that
10 defendant violated the following conditions of supervised release:

- 11 1. Using cocaine on or about April 20, 2009, in violation of condition No. 7.
- 12 2. Failing to submit a monthly report during the first five working days of May 2009 in
13 violation of standard condition No. 2.
- 14 3. Distribution of MDMA, a controlled substance, on or about May 9, 2009, in
15 violation of the general condition that the defendant not commit another federal, state, or local
16 crime.

17 On the government's motion, violation No. 3 was dismissed. Defendant admitted to
18 violations No. 1 and 2, waived any hearing as to whether they occurred, and was informed the
19 matter would be set for a disposition hearing on June 25, 2009 at 10:30 a.m. before District Judge
20 Marsha J. Pechman. The parties also requested defendant be released with an electronic home
21 monitoring condition. The Court granted the motion and entered an appearance bond.

22 RECOMMENDED FINDINGS AND CONCLUSIONS

23 Based upon the foregoing, I recommend the court find that defendant has violated the

1 conditions of his supervised release as alleged above, and conduct a disposition hearing.

2 DATED this 17th day of June, 2009.

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5 BRIAN A. TSUCHIDA
6 United States Magistrate Judge
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